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PATRICK E. DUFFY
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

DERRIK A. DAVIS,)	CV 06-34-H-DWM-RKS
)	
Petitioner,)	
)	
vs.)	ORDER
)	
WILLIAM SLAUGHTER, Director,)	
Montana Department of Corrections;)	
JAMES MACDONALD, Warden, CCC,)	
Shelby, Montana,)	
)	
Respondents.)	
_____)	

United States Magistrate Judge Keith Strong entered Findings and Recommendations in this matter on May 10, 2007. The parties did not timely object and so have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

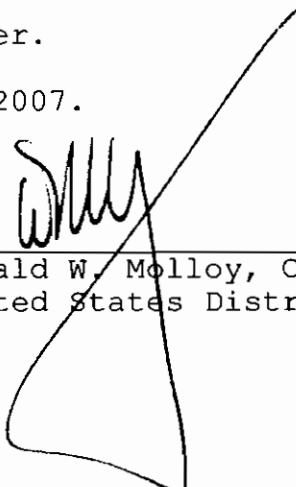
This case is before the Court on a Petition for Writ of

Habeas Corpus filed under 28 U.S.C. § 2254. Petitioner has filed a motion to amend the Petition seeking to insert Mike Ferriter as a respondent in place of William Slaughter, former Director of the Montana Department of Corrections. Judge Strong explained that a petitioner proceeding under § 2254 need only name as a respondent the state officer having custody of him. In this case, the proper respondent is James McDonald, Warden of Crossroads Correctional Facility. Because McDonald is already named as a Respondent in this case, Judge Strong recommended that the motion to amend be denied and that William Slaughter be dismissed as a Respondent.

I can find no clear error with Judge Strong's Findings and Recommendations and therefore adopt them in full.

Accordingly, IT IS HEREBY ORDERED that Petitioner's motion to amend (Doc. No. 5) is DENIED, and William Slaughter is DISMISSED as a Respondent in this matter.

DATED this 7th day of June, 2007.



Donald W. Molloy, Chief Judge
United States District Court